

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

AMOS BLANKS

PLAINTIFF

VS.

CIVIL ACTION NO. 5:12-cv-112(DCB)(MTP)

ETHEL CLAIBORNE and
DANNY JONES

DEFENDANTS

ORDER

This cause is before the Court on the defendants Ethel Claiborne and Danny Jones' motion for summary judgment (docket entry 34), on the Report and Recommendations of Magistrate Judge Michael T. Parker (docket entry 41), and on the "Objections" thereto of the plaintiff Amos Blanks (docket entry 42). Having carefully considered same, the Court finds as follows:

The plaintiff, Amos Blanks, is a post-conviction inmate at South Mississippi Correctional Institute ("SMCI") in Leakesville, Mississippi. The events giving rise to this lawsuit took place while he was housed at Wilkinson County Correctional Facility ("WCCF") in Woodville, Mississippi. In his complaint, the plaintiff asserts that he was attacked and stabbed by other WCCF inmates on or about December 3, 2011. He asserts that defendants Jones and Claiborne are responsible for his injuries because they failed to protect him from the inmates. The defendants seek summary judgment based on the plaintiff's failure to exhaust administrative remedies before initiating this lawsuit.

In response to the defendants' motion for summary judgment,

the plaintiff claimed that he was prevented from exhausting his administrative remedies by prison officials, and should therefore be excused from the exhaustion requirement. Magistrate Judge Parker found that argument to be without merit. Now, in his "Objections" to the Report and Recommendation, the plaintiff has abandoned that claim and concedes that summary judgment should be granted in favor of the defendants. He states his intention to exhaust his administrative remedies. The Court shall therefore adopt Magistrate Judge Parker's Report and Recommendations and dismiss the claims against defendants Claiborne and Jones without prejudice.¹ A final judgment shall follow.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendations of Magistrate Judge Michael T. Parker (**docket entry 41**) is ADOPTED as the findings and conclusions of this Court;

FURTHER ORDERED that defendants Ethel Claiborne and Danny Jones' motion for summary judgment (**docket entry 34**) is GRANTED;

FURTHER ORDERED that the claims against defendants Claiborne and Jones are DISMISSED WITHOUT PREJUDICE.

SO ORDERED, this the 25th day of March, 2014.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE

¹ Defendants Warden Byd and Charles Stewart were previously dismissed from this action with prejudice. See Order of October 3, 2012 (docket entry 19).